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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/649,503 | 08/26/2003 | Bernhard Gotz | 964-031254 | 5793 |

28289 7590 06/07/2005

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| EXAMINER |
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BRAHAN, THOMAS J

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| ART UNIT | PAPER NUMBER |
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3652

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|-------------------------------|----------------------|--|
| Office Action Summary | Application No. 10/649,503 | Applicant(s) GOTZ | |
| | Examiner Thomas J. Brahan | Art Unit 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 11, 12 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of DE 198 49 770 (cited by applicant). Martin shows a fork lift truck comprising a vehicle frame (1), a lifting mechanism (8), and a front axle having an axle body (12), wherein the lifting mechanism is connected with the axle body by a non-elastic bearing or by a rigid connecting element (18). Martin varies from the claims by not having an elastic bearing between the axle body (12) and the vehicle frame (1). DE '770 shows a forklift vehicle with several elastic bearings including bearings (14) between the vehicle frame (4) and the axle mounting (13). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the fork lift truck of Martin by providing an elastic bearing mounting between the axle body (12) and the vehicle frame (1), to isolate the body from load vibrations, as taught by DE '770. The lifting mechanism of Martin can be tilted, as recited in claim 2, with the added elastic bearings equalizing the tilting, as recited in claim 3. The added bearing is a damping element, as recited in claims 4. The drive unit and front wheels of Martin are attached to the axle body (12), as recited in claims 5 and 6. The lifting mechanism (8) is connected to the axle body (12) at two locations (18; see figure 2) as recited in claim 7. Axle body (12) of Martin is tubular, as recited in claims 8 and 15. Martin has a support element (cylinder 10) extending between the lifting mechanism and the vehicle frame, and some torques acting on the axle body can be supported by the lifting mechanisms and vehicle frame, as recited in claims 11, 12 and 18.

3. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of DE '770, as applied to claim 1, and further in view of Engel. Martin, as modified above, shows the basic claimed fork lift truck, but varies from claim 10 by not using gray cast iron for an element of the axle body (12). Engel shows a related wheel suspension housing body (52) and teaches that it can be made in several manners, including made of gray cast iron, for ease of manufacturing and design, see column 4, line 26-31. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the fork lift truck of Martin by making the axle body (12), or an element thereof, of gray cast iron, for ease of manufacture and design, as taught by Engel.

4. Claims 13 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of DE '770, as applied to claim 1, and further in view of Jones et al or Johnson et al. Martin, as modified above, shows

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the basic claimed fork lift truck, but varies by claims 13 and 14 by not specifying that an elastomeric material is used for the elastic damping elements (14). However elastomeric materials are commonly used for vehicle dampening elements. Jones et al shows a cab mounting that includes elastomeric damping elements (34 and 36). Johnson et al shows a cab mounting that includes elastomeric damping elements (22 and 23). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to use and elastomeric material for the above dampening members, as such polymeric materials are well known in the art, as taught by Jones et al or by Johnson et al.

5. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJBL 5/30/05

Thomas J. Brahan
Primary Examiner
Art Unit 3652